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STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC  
SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF DENTISTRY  
DOCKET NO.

In the Matter of the Suspension	)	
or Revocation of the License of	)	Administrative Action
	)	
JONATHAN M. FRIEDMAN, D.D.S.	)	ORDER
	)	
Licensed to Practice Dentistry	)	
in the State of New Jersey	)	
_____	)	

This matter was opened to the New Jersey State Board of Dentistry ("Board") upon the filing of a Notice of Motion for Enforcement of Board Order and Suspension of License by Deborah T. Poritz, Attorney General of New Jersey, by Joyce Brown, Deputy Attorney General. In support of the Motion was attached the Certification of Joyce Brown, D.A.G.; the Consent Order entered by Dr. Friedman and the Board on December 1993; the Board's Amended Order entered on December 22, 1993; a letter dated August 26, 1993, from Dr. Friedman to the Board surrendering his DEA registration; a copy of a prescription written by Dr. Friedman on March 14, 1994; the patient profile for David Villante; a copy of the pharmacy log with Mr. Villante's signature for Rx #5249567N (Percocet); and the Affidavit of Gregory J. Keiser, D.M.D. dated April 21, 1994. These pleadings alleged that Dr. Friedman failed to comply with the terms of the Consent Order filed on December 9, 1993, as amended by the Order filed on December 22, 1993, in that Dr. Friedman wrote a prescription for Percocet dated March

14, 1994 for a patient identified as David Villante notwithstanding that he had no authority to write such prescription. Further, it was alleged that Dr. Gregory J. Keiser, Dr. Friedman's practice partner and the dentist designated to provide direct supervision to Dr. Friedman pursuant to the Board's Orders, was not present in the office on March 14, 1994 when Dr. Friedman treated Mr. Villante and prescribed the Percocet.

Dr. Friedman did not file an answer to the Motion, but he submitted to the Board through his counsel, Pamela Mandel, Esq., written reports from Frederick Rotgers, Psy.D., Staff Clinician of the NJDA Chemical Dependency Program, and Mark Glat, Psy.D., Dr. Friedman's treating therapist.

A hearing on the matter was held on May 18, 1994. Deputy Attorney General Joyce Brown appeared on behalf of the Attorney General, and Pamela Mandel, Esq., appeared on behalf of Dr. Friedman. D.A.G. Brown advised the Board that Dr. Friedman wrote a prescription for Percocet for a patient on March 14, 1994, despite the fact that paragraph 5 of the Consent Order entered on December 9, 1993 provided that Dr. Friedman could not prescribe controlled dangerous substances and that he subsequently surrendered his DEA registration to the Board pursuant to that condition. The Board was advised further that pursuant to the Consent Order Dr. Friedman was permitted to practice dentistry during a probationary period under the direct supervision of a New Jersey licensed dentist and, pursuant to the

Order, direct supervision was defined to mean that the supervising dentist must be physically present at all times while Dr. Friedman was performing dental procedures. However, according to the certification of Dr. Gregory J. Keiser, Dr. Friedman's partner and supervising dentist, Dr. Keiser was not present in the office on March 14, 1994 when Dr. Friedman treated the patient and prescribed Percocet.

Dr. Friedman testified to the Board on his own behalf. He advised the Board that the dental treatment provided to patient David Villante consisted of the extraction of impacted third molars on February 28, 1994. Thereafter, the patient and the patient's mother complained through telephone calls to Dr. Friedman that Mr. Villante was in substantial pain, and the prescription legend medication prescribed by Dr. Friedman was not sufficient to control the pain. By March 14, 1994, the pain was so substantial that Dr. Friedman felt that a scheduled narcotic was required for the patient. Dr. Friedman testified that he attempted to reach Dr. Keiser through his beeper, but Dr. Keiser was out of range having attended an out-of-state convention. He advised the Board that he could not think of an alternative to prescribing the controlled dangerous substance for this patient himself. He stated that he realized at the time that writing the prescription would be a violation of the Order, but he felt that he was placing the patient's welfare before his own. Upon questioning by the Board members, Dr. Friedman admitted that he did not think of referring the patient back to his general

dentist or to another specialist and further, he did not report this incident to the Board or to his supervisor Dr. Keiser. Dr. Friedman also admitted that on another occasion he wrote an order for a controlled dangerous substance for a patient he treated in the hospital. This incident was not reported to the Board either.

Dr. Friedman also testified that he did not provide a copy of the Consent Order to Dr. Keiser so that Dr. Keiser was not aware that direct supervision was required. Dr. Friedman explained that the hours spent in the office by Dr. Keiser and him did not overlap entirely resulting in approximately one and a half days per week when Dr. Friedman was in the office treating patients without the physical presence of Dr. Keiser. Dr. Friedman indicated to the Board that it would be more appropriate for the nurses in the office to provide a supervisory and monitoring role since the nurses always were present in the office and worked more directly with him during actual dental treatment.

Gregory J. Keiser, D.M.D., also provided testimony to the Board in this matter. Dr. Keiser advised the Board that he was not aware that he was supposed to be providing direct supervision to Dr. Friedman. In fact, he was not provided with a copy of the Consent Order until after the incident concerning the prescription for a patient came to light and Dr. Keiser had a conversation with D.A.G. Brown who subsequently provided him with a copy of the Order. Dr. Keiser also testified that Dr. Friedman

did not advise him about the prescription he had written in his absence. Rather, this information was learned from one of the other employees in the office. Dr. Keiser stated that he was not in a position to provide direct supervision to Dr. Friedman and that the situation was causing obvious tension and stress in their business relationship.

All of the documents submitted by both counsel were made a part of the record at the hearing. The Board also heard closing arguments from both counsel and then resolved to move into executive session in order to deliberate on the matter.

The Board finds that Dr. Friedman has failed to comply with two substantive terms of the Consent Order filed with the Board on December 9, 1993, as amended by the Amended Order filed on December 22, 1993, in that he wrote a prescription for a patient in his office and an order for a hospital patient for controlled dangerous substances despite the fact that he has no authority to write controlled dangerous substance prescriptions by virtue of the terms of the Consent Order and the surrender of his DEA registration. Further, Dr. Friedman failed to inform Dr. Keiser of his role as his supervising dentist and, in fact, Dr. Friedman provided dental treatment in the office at times when Dr. Keiser was not physically present to provide supervision.

The Board was not convinced or persuaded by Dr. Friedman's assertion that he only acted out of concern for the welfare of his patient. The Board was impressed that Dr. Friedman failed to report the incident either to his supervising

dentist or to the Board directly. It also appeared to the Board that Dr. Friedman has failed to recognize that strict compliance is required with the terms and conditions of the Board's Order and that appropriate disclosures need to be made to other persons during the course of his dental practice about the restrictions on his license.

Accordingly, the Board finds there is a basis for ordering sanctions against Dr. Friedman in light of his admitted failure to comply with the Board's Order. That Order permitted Dr. Friedman to remain in practice only so long as he complied with the terms and conditions placed on his licensure so that the Board could be assured that his patients would be treated safely and that any lapse in Dr. Friedman's conduct would be reported immediately to the Board. The Board finds it necessary to impose sanctions in this matter, and the Board further finds that in view of these incidents it is necessary to modify the terms of the prior Orders. Therefore, in accordance with the Board's findings herein and for other good cause shown,

IT IS ON THIS 6<sup>th</sup> DAY OF June, 1994,

HEREBY ORDERED THAT:

1. Dr. Friedman's license to practice dentistry in the State of New Jersey shall be and hereby is actively suspended for a period of thirty (30) days effective fourteen (14) days from the entry date of this Order. Dr. Friedman shall derive no financial remuneration directly or indirectly related to patient fees paid for dental services rendered during the period of

active suspension by other licensees for his patients.

2. Dr. Friedman shall be permitted to prescribe controlled dangerous substances commencing upon his return to practice after the termination of the period of active suspension in accordance with the following terms and conditions:

(a) Dr. Friedman shall obtain and exclusively employ prescription pads which provide triplicate copies of each prescription and which are consecutively numbered.

(b) Dr. Friedman shall provide the original of the prescription to the patient, he shall place one copy in the patient's chart, and he shall submit one copy of all prescriptions to the Board on a monthly basis. He shall be required to account for each consecutive number regardless of whether the particular prescription was voided or not used for any purpose whatsoever. Further, Dr. Friedman also shall submit with each prescription for a controlled dangerous substance a copy of the patient's treatment record in order to confirm the need for the prescription.

(c) Dr. Friedman shall submit copies of these prescriptions in consecutive order accompanied by patient records when required no later than the fifth day of each month for all prescriptions written in the previous month. These shall be submitted to Agnes Clarke, Executive Director of the Board, at 124 Halsey Street, Sixth Floor, Newark, New Jersey 07102, so that they may be reviewed and monitored by the Board.

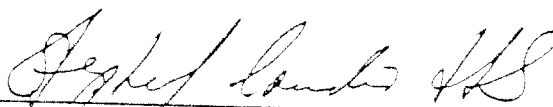
3. Dr. Friedman shall not be required to practice dentistry during the probationary period set forth by the Consent Order of December 9, 1993 under the supervision of another licensed dentist. The terms of paragraph 1(a) of that Consent Order are hereby terminated.

4. Dr. Friedman shall be required to place a telephone

call to Agnes Clarke, Director of the Board, on the Monday of any week when he has not been called by and or has not in fact provided to the NJDA Chemical Dependency Program two urine samples during the immediately preceding seven days. Further, Dr. Friedman shall advise Agnes Clarke immediately in the event he is notified by the Chemical Dependency Program that a urine test will not be made for a period of seven (7) days or longer for any reason whatsoever including, but not limited to, vacations, office closures, or illness.

5. Dr. Friedman shall pay the costs to the State for the investigation leading to the motion filed with the Board and for the hearing held on May 18, 1994. Upon receipt of a statement of the total costs from Agnes Clarke, Executive Director of the Board, Dr. Friedman shall submit a certified check or money order to the Board in full payment of the costs within ten (10) days of his receipt of such statement.

6. All other terms and conditions of the Consent Order entered on December 9, 1993 and the Amended Order entered on December 22, 1993, which are not inconsistent with the within Order shall continue in full force and effect.

  
STEPHEN CANDIO, VICE PRESIDENT  
BOARD OF DENTISTRY